

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN
DISTRICT OF TENNESSEE, WESTERN DIVISION AT MEMPHIS

05 SEP 28 PM 3:13

MICHAEL LUSTER,

Plaintiff,

vs.

**CIVIL ACTON NO. 03-2244
MA/AN**

**ML TENNESSEE APARTMENTS, LP, and
EQUITY RESIDENTIAL PROPERTIES
MANAGEMENT CORPORATION,**

Defendants.

PLAINTIFF
CLERK US DISTRICT COURT
W.D. TENNESSEE
MEMPHIS

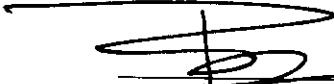
DEFENDANTS' NOTICE OF APPEAL

COME NOW the Defendants, ML Tennessee Apartments, LP, and Equity Residential Properties Management Corp., through the undersigned counsel and pursuant to Rule 3 of the Federal Rules of Appellate Procedure, and file this Notice of Appeal. Defendants file this appeal from (1) the Court's Order denying Defendants' Motion for New Trial, or, In the Alternative, Judgment as a Matter of Law, entered on September 7, 2005, and (2) the Judgment entered on September 9, 2005. This appeal is taken from the rulings of the United States District Court for the Western District of Tennessee, Western Division at Memphis, to this Sixth Circuit Court of Appeals.

WHEREFORE, having filed their Notice of Appeal, Defendants respectfully request that the Clerk of Court, pursuant to Rule 3(d) of the Federal Rules of Appellate Procedure, send copies of this Notice of Appeal and all docket entries in this cause to the Clerk of the Sixth Circuit Court of Appeals.

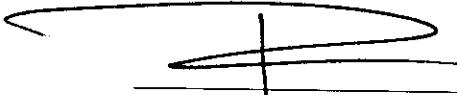
Respectfully submitted,

SPICER, FLYNN & RUDSTROM, PLLC


ROBERT D. FLYNN, #7941
Attorney for Defendants
Brinkley Plaza
80 Monroe Avenue, Suite 500
Memphis, TN 38103
(901)523-1333

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon counsel for Plaintiff, Danese K. Banks, The Cochran Firm, 2600 One Commerce Square, Memphis, TN 38103, via U.S. Mail, postage prepaid, on this the 28 day of September, 2005.


ROBERT D. FLYNN



Notice of Distribution

This notice confirms a copy of the document docketed as number 111 in case 2:03-CV-02244 was distributed by fax, mail, or direct printing on September 30, 2005 to the parties listed.

Thomas M. Gould
U.S. DISTRICT COURT
242 Federal Bldg.
167 No. Main St.
Memphis, TN 38103

Y. Kevin Williams
WEINBERG WHEELER HEDGINS GUNN & DIALS, LLC
950 East Paces Ferry Road
Ste. 3000
Atlanta, GA 30326

Brian P. Strength
COCHRAN CHERRY GIVENS & SMITH
P.O. Box 830419
Tuskegee, AL 36083

Jock M. Smith
COCHRAN CHERRY GIVENS & SMITH
P.O. Box 830419
Tuskegee, AL 36083

Jeffery S. Glatstein
SPICER FLYNN & RUDSTROM
80 Monroe Ave.
Ste. 500
Memphis, TN 38103-246

Robert D. Flynn
SPICER FLYNN & RUDSTROM
80 Monroe Ave.
Ste. 500
Memphis, TN 38103

Christopher T. Byrd
WEINBERG WHEELER HEDGINS GUNN & DIALS, LLC
950 East Paces Ferry Road
Ste. 3000
Atlanta, GA 30326

Danese K. Banks
COCHRAN CHERRY GIVENS SMITH & BOLTON
One Commerce Square
Ste. 2600
Memphis, TN 38103

Honorable Samuel Mays
US DISTRICT COURT